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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/726,329	12/01/2000	Fuminori Hiraishi	1185.1055/JDH	1030
21171	7590	11/03/2004	EXAMINER	
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			NGUYEN, DUNG T	
			ART UNIT	PAPER NUMBER
			2871	

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/726,329

Applicant(s)

HIRAISHI, FUMINORI

Examiner

Dung Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08/05/2004 has been entered.
2. Applicant's amendment dated 08/05/2004 has been received and entered. By the amendment, claims 1-6 are remain pending in the application.

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1-6 stand rejected under 35 U.S.C. 102(b) as being anticipated by Gunjima et al., US Patent No. 5,587,816, as stated in the final office action.

The above claims are anticipated by Gunjima et al. figure 1 which discloses an LCD device comprising:

- . an LCD panel (12) having a polarization plate (9);
- . a light source (1);
- . a light guide plate (3);
- . a light control sheet (prism 7) having a material same as light guide (e.g., resin, col. 10, ln. 42) disposed next to the polarization plate, wherein the light control sheet rotates polarized

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light emitted from the light guide plate toward a direction of a direction of light transmission axis of the polarization plate (9) (see figure 1 and col. 12, lines 31-45).

It should be noted that the limitation of “made/formed through” “drawing process” recites a one-step process which does not further limit the structure of the claimed. Therefore, the process limitation does not have patentable weight. See MPEP § 2113.

Response to Arguments

5. Applicant's arguments filed 06/08/2004 and 08/05/2004 have been fully considered but they are not persuasive:

Applicant contends that claims 1-6 are not product-by-process claims (Request for Reconsideration dated 06/08/2004, pages 1-2) and there are many statements in MPEP 2113 that provides/suggest that an apparatus claim cannot contain a single product-by-process limitation. The Examiner respectfully disagrees with Applicant's viewpoint. It should be noted that, according to MPEP 2113, “the patentability of a product does not depend on its method of production”, *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966. In addition, as stated by Applicant, “the structure implied by the process steps should be considered ...”; however, once a product appearing to be substantially identical is found and a 35 U.S.C. 102/103 rejection made, the burden shifts to the Applicant to show an unobvious difference between the two. Therefore, such product-by-process limitation is unpatentable even though the prior product was made by a different process or at least obvious from a product of the prior art.

Applicant also contends that Gunjima et al. fails to disclose light control sheet being rotated a maximum-intensity direction of polarization toward a direction of a light transmission

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axis of the polarization plate (Request for Reconsideration dated 06/08/2004, page 2). The Examiner is not convinced by this argument since the same is true of the Gunjima et al. light control sheet (prism 7) (e.g., convert the light direction – see col. 12, lines 41-45).

Accordingly, the rejection of claims 1-6 stand.

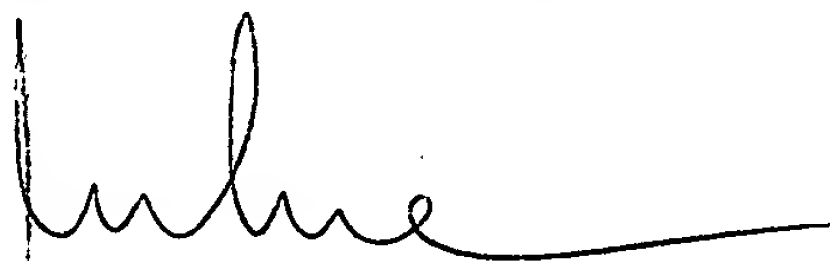
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung Nguyen whose telephone number is 571-272-2297. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert H. Kim can be reached on 571-272-2293. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DN
11/01/2004



Dung Nguyen
Primary Examiner
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